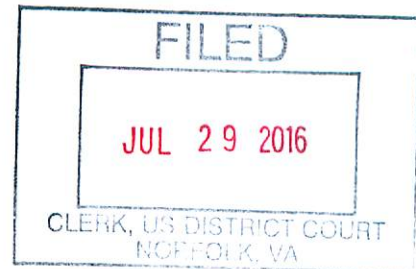


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



JAMES MADISON McCAULEY, #1004891,

Petitioner,

v.

ACTION NO. 2:15cv504

HAROLD W. CLARKE,
Director, Virginia Department of Corrections

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner alleges he was deprived of his constitutional rights regarding his 1996 guilty plea and felony convictions in the Chesterfield County Circuit Court. As a result of the convictions, Petitioner was sentenced to serve life in prison, plus twenty years.

In addition to his petition for a writ of habeas corpus, Petitioner filed a Motion to Appoint Counsel (ECF No. 3). "There is no constitutional right to an attorney in post-conviction proceedings." Coleman v. Thompson, 501 U.S. 722, 752 (1991). Although appointment of counsel is permitted under 18 U.S.C. § 3006A(a)(2), it is not required unless the petitioner is granted an evidentiary hearing. Rule 8(c), Federal Rules Governing Section 2254 Proceedings. Accordingly, the court DENIES Petitioner's

Motion to Appoint Counsel (ECF No. 3).

The matter was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Report and Recommendation filed June 22, 2016, recommends dismissal of the petition. Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On July 11, 2016, the Court received petitioner's Objections to the Report and Recommendation. The respondent filed no response to the objections and the time for responding has now expired.

The Court, having reviewed the record and examined the objections filed by petitioner to the Report and Recommendation, and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation filed June 22, 2016. It is, therefore, ORDERED that Respondent's Motion to Dismiss be GRANTED and the Petitioner's petition be DENIED and DISMISSED with prejudice.

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within

thirty (30) days from the date of entry of such judgment.

Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk is directed to mail a copy of this Final Order to petitioner and provide an electronic copy of the Final Order to counsel of record for respondent.

/s/ 

MARK S. DAVIS
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

July 29, 2016